

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the State
5 Facility Overtime Act.

6 Section 5. Definitions.

7 "State facility" includes all Department of Human Services
8 operated residential facilities including State mental health
9 hospitals, State developmental centers, treatment and
10 detention facilities for sexually violent persons, and State
11 residential schools for the deaf and visually impaired; all
12 Department of Veterans Affairs operated homes; all Department
13 of Corrections operated correctional centers, work camps, boot
14 camps, and adult transition centers; all Department of Juvenile
15 Justice operated youth centers and boot camps; and any other
16 State facility under the jurisdiction of these State agencies
17 that operates on a 24 hour basis.

18 "Mandatory overtime" means work in excess of an agreed
19 upon, predetermined, and regularly scheduled daily work shift,
20 not to exceed 40 hours per week, assigned to an employee
21 without the employee's consent.

22 "Employee" means an individual employed by a State facility
23 who is covered by a collective bargaining agreement.

1 "Director" means the Director, or designee of the Director,
2 of the State agency responsible for the operation of the State
3 facility or his or her agent.

4 "Department" means the Department of Labor and its agents.

5 Section 10. Legislative intent. The General Assembly finds
6 that years of staff cuts at State facilities such as prisons,
7 developmental and mental health centers, youth centers, and
8 veterans homes have created deplorable working conditions
9 including excessive overtime. Many State facilities routinely
10 use mandatory overtime to cover staff vacancies. This is
11 frequently on top of work schedules that are already in excess
12 of 40 hours per week. Excessive overtime is driving many
13 dedicated employees out of State service, exacerbating the
14 short staffing crisis. This impacts employee health, welfare,
15 and safety, as well as the ability of staff to deliver
16 necessary services.

17 Section 15. Ban on mandatory overtime. A Director shall not
18 require an employee to accept work in excess of an agreed upon,
19 predetermined, and regularly scheduled daily work shift, not to
20 exceed 40 hours per week.

21 Section 20. Exceptions.

22 (a) The acceptance by any employee of work in excess of an
23 agreed upon, predetermined, and regularly scheduled daily work

1 shift, not to exceed 40 hours per week, shall be strictly
2 voluntary and the refusal of any employee to accept such
3 overtime work shall not be grounds for discrimination,
4 dismissal, discharge, or any other penalty or employment
5 decision adverse to the employee.

6 (b) This Act shall not apply in the event of any declared
7 national or State emergency or a disaster or other catastrophic
8 event that substantially affects or increases the need for
9 State services.

10 Section 25. Posting of Act. Every Director subject to any
11 provision of this Act shall keep a summary of this Act approved
12 by the Department posted in a conspicuous and accessible place
13 in or about the premises wherever any person subject to this
14 Act is employed.

15 Section 30. Investigation and enforcement. An employee or
16 the employee's collective bargaining representative may bring
17 a complaint to the Illinois Department of Labor if the employee
18 believes that the employee's Director is in violation of this
19 Act. The Department shall conduct an investigation of the
20 complaint. When an investigation results in a finding that the
21 employee suffered discrimination, dismissal, discharge, or any
22 other penalty or employment decision adverse to the employee as
23 a result of refusing overtime, the Department has the authority
24 to make that employee whole.

1 Section 35. Construction and applicability. Nothing in
2 this Act shall be construed to impair or negate the ability of
3 collective bargaining representatives of employees subject to
4 this Act from negotiating procedures and remedies that provide
5 to those covered employees rights that are additional to those
6 in this Act. Nothing in this Act shall be construed to limit
7 the enforcement of a collective bargaining arbitrator's
8 finding of a violation of this Act.

9 Section 40. No authority to make or promulgate rules.
10 Notwithstanding any other rulemaking authority that may exist,
11 neither the Governor nor any agency or agency head under the
12 jurisdiction of the Governor has any authority to make or
13 promulgate rules to implement or enforce the provisions of this
14 Act. If, however, the Governor believes that rules are
15 necessary to implement or enforce the provisions of this Act,
16 the Governor may suggest rules to the General Assembly by
17 filing them with the Clerk of the House and Secretary of the
18 Senate and by requesting that the General Assembly authorize
19 such rulemaking by law, enact those suggested rules into law,
20 or take any other appropriate action in the General Assembly's
21 discretion. Nothing contained in this Act shall be interpreted
22 to grant rulemaking authority under any other Illinois statute
23 where such authority is not otherwise explicitly given. For the
24 purposes of this Act, "rules" is given the meaning contained in

1 Section 1-70 of the Illinois Administrative Procedure Act, and
2 "agency" and "agency head" are given the meanings contained in
3 Sections 1-20 and 1-25 of the Illinois Administrative Procedure
4 Act to the extent that such definitions apply to agencies or
5 agency heads under the jurisdiction of the Governor.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.